

House File 606 - Introduced

HOUSE FILE 606

BY DOLECHECK

A BILL FOR

1 An Act providing for the imposition by a county of a local
2 option use tax.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

DIVISION I

LOCAL OPTION USE TAX

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Section 1. Section 423B.1, subsections 3, 4, and 5, Code 2017, are amended to read as follows:

3. A local option tax shall be imposed only after an election at which a majority of those voting on the question favors imposition and shall then be imposed until repealed as provided in subsection 6, paragraph "a". If the tax is a local vehicle tax imposed by a county, it shall apply to all incorporated and unincorporated areas of the county. If the tax is a local sales and services tax imposed by a county, it shall only apply to those incorporated areas and the unincorporated area of that county in which a majority of those voting in the area on the tax favors its imposition. If the tax is a local use tax, it shall only be imposed by a county if the county is also imposing a local sales and services tax, and shall only apply to those incorporated areas and the unincorporated area of that county in which a majority of those voting in the area on the tax favors imposition, and in which the local sales and services tax is also imposed. For purposes of the local sales and services tax and the local use tax, all cities contiguous to each other shall be treated as part of one incorporated area and the tax would be imposed in each of those contiguous cities only if the majority of those voting in the total area covered by the contiguous cities favors its imposition. In the case of a local sales and services tax or a local use tax submitted to the registered voters of two or more contiguous counties as provided in subsection 4, paragraph "c", all cities contiguous to each other shall be treated as part of one incorporated area, even if the corporate boundaries of one or more of the cities include areas of more than one county, and the tax shall be imposed in each of those contiguous cities only if a majority of those voting on the tax in the total area covered by the contiguous cities favored its imposition. For purposes of the local sales and services tax and the local use

1 tax, a city is not contiguous to another city if the only road
2 access between the two cities is through another state.

3 4. a. A county board of supervisors shall direct within
4 thirty days the county commissioner of elections to submit the
5 question of imposition of a local vehicle tax, ~~or~~ a local sales
6 and services tax, or a local use tax to the registered voters
7 of the incorporated and unincorporated areas of the county
8 upon receipt of a petition, requesting imposition of a local
9 vehicle tax, ~~or~~ a local sales and services tax, or a local use
10 tax, signed by eligible electors of the whole county equal in
11 number to five percent of the persons in the whole county who
12 voted at the last preceding general election. In the case of
13 a local vehicle tax, the petition requesting imposition shall
14 specify the rate of tax and the classes, if any, that are to
15 be exempt. If more than one valid petition is received, the
16 earliest received petition shall be used.

17 b. The question of the imposition of a local sales and
18 services tax or a local use tax shall be submitted to the
19 registered voters of the incorporated and unincorporated
20 areas of the county upon receipt by the county commissioner
21 of elections of the motion or motions, requesting such
22 submission, adopted by the governing body or bodies of the
23 city or cities located within the county or of the county, for
24 the unincorporated areas of the county, representing at least
25 one half of the population of the county. Upon adoption of
26 such motion, the governing body of the city or county, for the
27 unincorporated areas, shall submit the motion to the county
28 commissioner of elections and in the case of the governing
29 body of the city shall notify the board of supervisors of the
30 adoption of the motion. The county commissioner of elections
31 shall keep a file on all the motions received and, upon
32 reaching the population requirements, shall publish notice of
33 the ballot proposition concerning the imposition of the local
34 sales and services tax or the local use tax. A motion ceases
35 to be valid at the time of the holding of the regular election

1 for the election of members of the governing body which
2 adopted the motion. The county commissioner of elections shall
3 eliminate from the file any motion that ceases to be valid.
4 The manner provided under this paragraph for the submission of
5 the question of imposition of a local sales and services tax
6 or a local use tax is an alternative to the manner provided in
7 paragraph "a".

8 c. Upon receipt of petitions or motions calling for the
9 submission of the question of the imposition of a local sales
10 and services tax or a local use tax as described in paragraph
11 "a" or "b", the boards of supervisors of two or more contiguous
12 counties in which the question is to be submitted may enter
13 into a joint agreement providing that for purposes of this
14 chapter, a city whose corporate boundaries include areas of
15 more than one county shall be treated as part of the county
16 in which a majority of the residents of the city reside. In
17 such event, the county commissioners of elections from each
18 such county shall cooperate in the selection of a single date
19 upon which the election shall be held, and for all purposes of
20 this chapter relating to the imposition, repeal, change of use,
21 or collection of the tax, such a city shall be deemed to be
22 part of the county in which a majority of the residents of the
23 city reside. A copy of the joint agreement shall be provided
24 promptly to the director of revenue.

25 5. The county commissioner of elections shall submit the
26 question of imposition of a local option tax at an election
27 held on a date specified in [section 39.2, subsection 4,](#)
28 paragraph "a". The election shall not be held sooner than sixty
29 days after publication of notice of the ballot proposition.
30 The ballot proposition shall specify the type and rate of tax
31 and in the case of a vehicle tax the classes that will be
32 exempt and in the case of a local sales and services tax or
33 a local use tax the date it will be imposed which date shall
34 not be earlier than ninety days following the election. The
35 ballot proposition shall also specify the approximate amount

1 of local option tax revenues that will be used for property
2 tax relief and shall contain a statement as to the specific
3 purpose or purposes for which the revenues shall otherwise be
4 expended. If the county board of supervisors decides under
5 subsection 6 to specify a date on which the local option sales
6 and services tax or a local use tax shall automatically be
7 repealed, the date of the repeal shall also be specified on the
8 ballot. The rate of the vehicle tax shall be in increments of
9 one dollar per vehicle as set by the petition seeking to impose
10 the tax. The rate of a local sales and services tax shall not
11 be more than one percent as set by the governing body. The rate
12 of a local use tax shall be the same as the local sales and
13 services tax rate set by the same governing body. The state
14 commissioner of elections shall establish by rule the form for
15 the ballot proposition which form shall be uniform throughout
16 the state.

17 Sec. 2. Section 423B.1, subsection 6, paragraph a, Code
18 2017, is amended to read as follows:

19 a. (1) If a majority of those voting on the question of
20 imposition of a local option tax favors imposition of a local
21 option tax, the governing body of that county shall impose the
22 tax at the rate specified for an unlimited period. However,
23 in the case of a local sales and services tax or a local use
24 tax, the county shall not impose the tax in any incorporated
25 area or the unincorporated area if the majority of those voting
26 on the tax in that area did not favor its imposition and, in
27 the case of a local use tax, shall not impose the tax in any
28 incorporated area or the unincorporated area in which the
29 local sales and services tax is not imposed. For purposes of
30 the local sales and services tax and the local use tax, all
31 cities contiguous to each other shall be treated as part of one
32 incorporated area and the tax shall be imposed in each of those
33 contiguous cities only if the majority of those voting on the
34 tax in the total area covered by the contiguous cities favored
35 its imposition. In the case of a local sales and services

1 tax or a local use tax submitted to the registered voters of
 2 two or more contiguous counties as provided in [subsection 4](#),
 3 paragraph "c", all cities contiguous to each other shall be
 4 treated as part of one incorporated area, even if the corporate
 5 boundaries of one or more of the cities include areas of more
 6 than one county, and the tax shall be imposed in each of those
 7 contiguous cities only if a majority of those voting on the tax
 8 in the total area covered by the contiguous cities favored its
 9 imposition.

10 (2) The local option tax may be repealed or the rate
 11 increased or decreased or the use thereof changed after an
 12 election at which a majority of those voting on the question of
 13 repeal or rate or use change favored the repeal or rate or use
 14 change. However, if a local sales and services tax is repealed
 15 or the rate decreased, the local use tax imposed within that
 16 county, if any, shall be deemed to be repealed or reduced
 17 by the same action repealing or reducing the local sales and
 18 services tax. The date on which the repeal, rate, or use
 19 change is to take effect shall not be earlier than ninety days
 20 following the election. The election at which the question
 21 of repeal or rate or use change is offered shall be called
 22 and held in the same manner and under the same conditions
 23 as provided in [subsections 4 and 5](#) for the election on the
 24 imposition of the local option tax. However, in the case of
 25 a local sales and services tax and a local use tax where the
 26 tax has not been imposed countywide, the question of repeal or
 27 imposition or rate or use change shall be voted on only by the
 28 registered voters of the areas of the county where the tax has
 29 been imposed or has not been imposed, as appropriate. However,
 30 the governing body of the incorporated area or unincorporated
 31 area where the local sales and services tax and the local
 32 use tax is imposed may, upon its own motion, request the
 33 county commissioner of elections to hold an election in the
 34 incorporated or unincorporated area, as appropriate, on the
 35 question of the change in use of local sales and services tax

1 or the local use tax revenues. The election may be held at
2 any time but not sooner than sixty days following publication
3 of the ballot proposition. If a majority of those voting
4 in the incorporated or unincorporated area on the change in
5 use favors the change, the governing body of that area shall
6 change the use to which the revenues shall be used. The ballot
7 proposition shall list the present use of the revenues, the
8 proposed use, and the date after which revenues received will
9 be used for the new use.

10 (3) When submitting the question of the imposition of a
11 local sales and services tax or a local use tax, the county
12 board of supervisors may direct that the question contain a
13 provision for the repeal, without election, of the local sales
14 and services tax or the local use tax on a specific date, which
15 date shall be as provided in [section 423B.6, subsection 1](#).

16 Sec. 3. Section 423B.1, subsections 8, 9, and 10, Code 2017,
17 are amended to read as follows:

18 8. Local option taxes authorized to be imposed as provided
19 in [this chapter](#) are a local sales and services tax, and a local
20 vehicle tax, and a local use tax. The rate of the tax shall
21 be in increments of one dollar per vehicle for a vehicle tax
22 as set on the petition seeking to impose the vehicle tax. The
23 rate of a local sales and services tax shall not be more than
24 one percent as set by the governing body. The rate of a local
25 use tax shall be the same as the local sales and services tax
26 rate set by the same governing body.

27 9. In a county that has imposed a local option sales
28 and services tax or a local option use tax, the board of
29 supervisors shall, notwithstanding any contrary provision of
30 this chapter, repeal the local option sales and services tax or
31 the local option use tax in the unincorporated areas or in an
32 incorporated city area in which the tax has been imposed upon
33 adoption of its own motion for repeal in the unincorporated
34 areas or upon receipt of a motion adopted by the governing
35 body of that incorporated city area requesting repeal. If a

1 local sales and services tax is repealed pursuant to such a
2 motion, the local use tax imposed within the same incorporated
3 city area or the unincorporated area, if any, shall be deemed
4 to be repealed by the same motion repealing the local sales
5 and services tax. The board of supervisors shall repeal the
6 local option sales and services tax or the local option use
7 tax effective on the later of the date of the adoption of the
8 repeal motion or the earliest date specified in section 423B.6,
9 subsection 1. For purposes of **this subsection**, incorporated
10 city area includes an incorporated city which is contiguous to
11 another incorporated city.

12 10. Notwithstanding **subsection 9** or any other contrary
13 provision of **this chapter**, a local option sales and services
14 tax and a local use tax shall not be repealed or reduced in rate
15 if obligations are outstanding which are payable as provided in
16 section 423B.9, unless funds sufficient to pay the principal,
17 interest, and premium, if any, on the outstanding obligations
18 at and prior to maturity have been properly set aside and
19 pledged for that purpose.

20 Sec. 4. **NEW SECTION. 423B.5A Local use tax.**

21 1. A county that is imposing a local sales and services tax
22 under section 423B.5 may impose a local use tax at the same
23 rate on the purchase price or installed purchase price taxed by
24 the state under chapter 423, subchapter III. A local use tax
25 shall be imposed on the same basis as the state use tax except
26 it shall not be imposed on any of the following:

27 a. The purchase price on the use of natural gas, natural gas
28 service, electricity, or electric service.

29 b. The purchase price on the use of any property or on the
30 use of any service not taxed by the state.

31 c. The purchase price from the use of motor fuel or special
32 fuel as defined in chapter 452A which is consumed for highway
33 use or in watercraft or aircraft if the fuel tax is paid on the
34 transaction and a refund has not or will not be allowed.

35 d. The purchase price from the use of equipment by the state

1 department of transportation.

2 2. A local use tax is applicable to uses of property or
3 services within those incorporated and unincorporated areas
4 of the county where it is imposed and shall be collected by
5 all persons required to collect state use taxes, and if not
6 collected by such persons shall be paid by the person using
7 the property or service. All cities contiguous to each other
8 shall be treated as part of one incorporated area and the tax
9 is imposed in each of those contiguous cities only if the
10 majority of those voting in the total area covered by the
11 contiguous cities favors its imposition. In the case of a
12 local use tax submitted to the registered voters of two or more
13 contiguous counties as provided in section 423B.1, subsection
14 4, paragraph "c", all cities contiguous to each other shall be
15 treated as part of one incorporated area, even if the corporate
16 boundaries of one or more of the cities include areas of more
17 than one county, and the tax shall be imposed in each of those
18 contiguous cities only if a majority of those voting on the tax
19 in the total area covered by the contiguous cities favor its
20 imposition.

21 3. For purposes of the proper administration of the local
22 use tax and to prevent its evasion, evidence that tangible
23 personal property was sold by any person for delivery to a
24 location in this state shall be prima facie evidence that such
25 tangible personal property was sold for use at that location
26 in this state.

27 4. The amount of the purchase price, for purposes of
28 determining the amount of the local use tax, does not include
29 the amount of any state use tax.

30 5. A tax permit other than the state use tax permit
31 required under section 423.36 shall not be required by local
32 authorities.

33 Sec. 5. Section 423B.6, Code 2017, is amended to read as
34 follows:

35 **423B.6 Administration.**

1 1. *a.* A local sales and services tax or a local use tax
2 shall be imposed either January 1 or July 1 following the
3 notification of the director of revenue but not sooner than
4 ninety days following the favorable election and not sooner
5 than sixty days following notice to sellers, as defined in
6 section 423.1. However, a jurisdiction which has voted to
7 continue imposition of the tax may impose that tax without
8 repeal of the prior tax.

9 *b.* A local sales and services tax or a local use tax shall
10 be repealed only on June 30 or December 31 but not sooner than
11 ninety days following the favorable election if one is held.
12 However, a local sales and services tax shall not be repealed
13 before the tax has been in effect for one year. At least forty
14 days before the imposition or repeal of the tax, a county shall
15 provide notice of the action by certified mail to the director
16 of revenue.

17 *c.* The imposition of or a rate change for a local sales
18 and services tax or a local use tax shall not be applied to
19 purchases from a printed catalog wherein a purchaser computes
20 the local tax based on rates published in the catalog unless a
21 minimum of one hundred twenty days' notice of the imposition or
22 rate change has been given to the seller from the catalog and
23 the first day of a calendar quarter has occurred on or after
24 the one hundred twentieth day.

25 *d.* If a local sales and services tax has been imposed
26 prior to April 1, 2000, and at the time of the election a date
27 for repeal was specified on the ballot, the local sales and
28 services tax may be repealed on that date, notwithstanding
29 paragraph "b".

30 2. *a.* The director of revenue shall administer a local
31 sales and services tax and a local use tax as nearly as
32 possible in conjunction with the administration of state sales
33 and use tax laws. The director shall provide appropriate forms
34 or provide on the regular state tax forms for reporting local
35 sales and services tax liability and local use tax liability.

1 *b.* The ordinance of a county board of supervisors imposing
2 a local sales and services tax or a local use tax shall adopt
3 by reference the applicable provisions of the appropriate
4 sections of [chapter 423](#). All powers and requirements of the
5 director to administer the state sales tax law and use tax
6 law are applicable to the administration of a local sales and
7 services tax law, and the local excise tax, and the local use
8 tax, including but not limited to the provisions of section
9 422.25, subsection 4, [sections 422.30, 422.67, and 422.68](#),
10 section 422.69, subsection 1, [sections 422.70 through 422.75](#),
11 ~~section and sections 423.14, subsection 1 and subsection 2,~~
12 ~~paragraphs "b" through "e", and sections 423.15, [423.23, 423.24,](#)~~
13 [423.25, 423.31 through 423.35, 423.37 through 423.42, 423.46,](#)
14 [and 423.47](#). Local officials shall confer with the director of
15 revenue for assistance in drafting the ordinance imposing a
16 local sales and services tax or a local use tax. A certified
17 copy of the ordinance shall be filed with the director as soon
18 as possible after passage.

19 *c.* Frequency of deposits and quarterly reports ~~of~~ with the
20 department of revenue are governed by the tax provisions in
21 section 423.31 for a local sales and services tax with the
22 ~~department of revenue and~~ are governed by the tax provisions
23 in ~~section 423.31~~ [423.32 for a local use tax](#). Local tax
24 collections shall not be included in computation of the total
25 tax to determine frequency of filing under section 423.31 or
26 [423.32](#).

27 *d.* The director shall apply a boundary change of a county or
28 city imposing or collecting the local sales and services tax
29 or the local use tax to the imposition or collection of that
30 tax only on the first day of a calendar quarter which occurs
31 sixty days or more after the director has given notice of the
32 boundary change to sellers.

33 3. *a.* The director, in consultation with local officials,
34 shall collect and account for a local sales and services tax
35 and a local use tax. The director shall certify each quarter

1 the amount of local sales and services tax receipts and any
2 interest and penalties to be credited to the "local sales and
3 services tax fund" established in the office of the treasurer
4 of state. The director shall certify each quarter the amount
5 of local use tax receipts and any interest and penalties to
6 be credited to the "local use tax fund" established in the
7 office of the treasurer of state. All taxes collected under
8 this chapter by a retailer or any individual are deemed to be
9 held in trust for the state of Iowa and the local jurisdictions
10 imposing the taxes.

11 *b.* All local tax moneys and interest and penalties received
12 or refunded one hundred eighty days or more after the date on
13 which the county repeals its local sales and services tax or
14 local use tax shall be deposited in or withdrawn from the state
15 general fund.

16 Sec. 6. Section 423B.7, subsection 1, paragraph a, Code
17 2017, is amended to read as follows:

18 *a.* Except as provided in paragraph "b", the director shall
19 credit the local sales and services tax receipts and interest
20 and penalties from a county-imposed tax to the county's
21 account in the local sales and services tax fund and from a
22 city-imposed tax under [section 423B.1, subsection 2](#), to the
23 city's account in the local sales and services tax fund. The
24 director shall credit the local use tax receipts and interest
25 and penalties from a county-imposed tax to the county's account
26 in the local use tax fund. If the director is unable to
27 determine from which county any of the receipts were collected,
28 those receipts shall be allocated among the possible counties
29 based on allocation rules adopted by the director.

30 Sec. 7. Section 423B.7, subsection 7, Code 2017, is amended
31 to read as follows:

32 7. Local sales and services tax moneys and local use tax
33 moneys received by a city or county may be expended for any
34 lawful purpose of the city or county.

35 Sec. 8. Section 423B.8, Code 2017, is amended to read as

1 follows:

2 **423B.8 Construction contractor refunds.**

3 1. Construction contractors may make application to the
4 department for a refund of the additional local sales and
5 services tax or local use tax paid under [this chapter](#) by
6 reason of taxes paid on goods, wares, or merchandise under the
7 following conditions:

8 a. The goods, wares, or merchandise are incorporated into an
9 improvement to real estate in fulfillment of a written contract
10 fully executed prior to the date of the imposition or increase
11 in rate of a local sales and services tax or a local use tax
12 under [this chapter](#). The refund shall not apply to equipment
13 transferred in fulfillment of a mixed construction contract.

14 b. The contractor has paid to the department or to a
15 retailer the full amount of the state and local tax.

16 c. The claim is filed on forms provided by the department
17 and is filed within one year of the date the tax is paid.

18 2. The department shall pay the refund from the appropriate
19 city's or county's account in the local sales and services tax
20 fund or the local use tax fund.

21 3. A contractor who makes an erroneous application for
22 refund shall be liable for payment of the excess refund paid
23 plus interest at the rate in effect under [section 421.7](#). In
24 addition, a contractor who willfully makes a false application
25 for refund is guilty of a simple misdemeanor and is liable
26 for a penalty equal to fifty percent of the excess refund
27 claimed. Excess refunds, penalties, and interest due under
28 this subsection may be enforced and collected in the same
29 manner as the local sales and services tax and the local use
30 tax imposed under [this chapter](#).

31 Sec. 9. Section 423B.9, subsections 1, 2, and 3, Code 2017,
32 are amended to read as follows:

33 1. For purposes of [this section](#) unless the context otherwise
34 requires:

35 a. "Bond issuer" or "issuer" means a city, a county, or a

1 secondary recipient.

2 *b.* “*Designated portion*” means the portion of the local
3 option sales and services tax revenues or the local option use
4 tax revenues which is authorized to be expended for one or a
5 combination of purposes under an adopted public measure.

6 *c.* “*Secondary recipient*” means a political subdivision of
7 the state which is to receive revenues from a local option
8 sales and services tax or a local use tax over a period of years
9 pursuant to the terms of a [chapter 28E](#) agreement with one or
10 more cities or counties.

11 2. An issuer of public bonds which is a recipient of
12 revenues from a local option sales and services tax or a local
13 use tax imposed pursuant to [this chapter](#) may issue bonds in
14 anticipation of the collection of one or more designated
15 portions of the local option sales and services tax or the
16 local option use tax and may pledge irrevocably an amount of
17 the revenue derived from the designated portions for each of
18 the years the bonds remain outstanding to the payment of the
19 bonds. Bonds may be issued only for one or more of the purposes
20 set forth on the ballot proposition concerning the imposition
21 of the local option sales and services tax or the local option
22 use tax, except bonds shall not be issued which are payable
23 from that portion of tax revenues designated for property
24 tax relief. The bonds may be issued in accordance with the
25 procedures set forth in either [subsection 3 or 4](#).

26 3. The governing body of an issuer may authorize the
27 issuance of bonds which are payable from the designated portion
28 of the revenues of the local option sales and services tax
29 or the local option use tax, and not from property tax, by
30 following the authorization procedures set forth for cities
31 in [section 384.83](#). Bonds may be issued for the purpose of
32 refunding outstanding and previously issued bonds under this
33 subsection without otherwise complying with the provisions of
34 this subsection.

35 Sec. 10. Section 423B.9, subsection 4, paragraph b, Code

1 2017, is amended to read as follows:

2 *b.* The provisions of [chapter 76](#) apply to the bonds payable
3 as provided in [this subsection](#), except that the mandatory levy
4 to be assessed pursuant to [section 76.2](#) shall be at a rate
5 to generate an amount which together with the receipts from
6 the pledged designated portion of the local option sales and
7 services tax or the local option use tax is sufficient to pay
8 the interest and principal on the bonds. All amounts collected
9 as a result of the levy assessed pursuant to [section 76.2](#) and
10 paid out in the first instance for bond principal and interest
11 shall be repaid to the bond issuer which levied the tax from
12 the first available designated portion of local option sales
13 and services tax or local option use tax collections received
14 in excess of the requirement for the payment of the principal
15 and interest of the bonds and when repaid shall be applied in
16 reduction of property taxes. The amount of bonds which may be
17 issued under [section 76.3](#) shall be the amount which could be
18 retired from the actual collections of the designated portions
19 of the local option sales and services tax or the local option
20 use tax for the last four calendar quarters, as certified by
21 the director of revenue. The amount of tax revenues pledged
22 jointly by other cities or counties may be considered for the
23 purpose of determining the amount of bonds which may be issued.
24 If the local option sales and services tax or the local
25 option use tax has been in effect for less than four calendar
26 quarters, the tax collected within the shorter period may be
27 adjusted to project the collections of the designated portion
28 for the full year for the purpose of determining the amount of
29 the bonds which may be issued. The provisions of [this section](#)
30 constitute separate authorization for the issuance of bonds and
31 shall prevail in the event of conflict with any other provision
32 of the Code limiting the amount of bonds which may be issued or
33 the source of payment of the bonds. Bonds issued under this
34 section shall not limit or restrict the authority of the bond
35 issuer to issue bonds under other provisions of the Code.

1 source than taxation which may be appropriated to the payment
2 either of interest or principal, or both principal and interest
3 of such bonds, such funds may be so appropriated and used and
4 the levy for the payment of the bonds correspondingly reduced.
5 This section shall not restrict the authority of a political
6 subdivision to apply local sales and services tax or local
7 use tax receipts collected pursuant to [chapter 423B](#) for such
8 purpose. Notwithstanding [section 423F.3](#), a school district may
9 apply tax receipts received pursuant to [chapter 423F](#) for the
10 purposes of [this section](#).

11 Sec. 15. Section 279.63, subsection 2, paragraph a, Code
12 2017, is amended to read as follows:

13 a. All property tax levies, income surtaxes, and
14 local option sales and use taxes in place in the school
15 district, listed by type of levy, rate, amount, duration,
16 and notification of the maximum rate and amount limitations
17 permitted by statute.

18 Sec. 16. Section 418.13, subsection 2, Code 2017, is amended
19 to read as follows:

20 2. In addition to the moneys received pursuant to section
21 418.10 or [418.12](#), a governmental entity may deposit in the
22 flood project fund any other moneys lawfully received by the
23 governmental entity, including but not limited to local sales
24 and services tax or local use tax receipts collected under
25 chapter 423B.

26 Sec. 17. Section 423.4, subsection 7, paragraph f, Code
27 2017, is amended to read as follows:

28 f. The refund in [this subsection](#) applies only to state sales
29 and use tax paid and does not apply to local option sales and
30 services taxes or local option use taxes imposed pursuant to
31 chapter 423B. Notwithstanding the state sales tax imposed
32 in [section 423.2](#), a refund issued pursuant to [this section](#)
33 shall not exceed an amount equal to five percent of the sales
34 price of the fuel used to create heat, power, and steam for
35 processing or generating electrical current or from the sale

1 price of electricity consumed by computers, machinery, or other
2 equipment for operation of the data center business facility.

3 Sec. 18. Section 423.4, subsection 8, paragraph g, Code
4 2017, is amended to read as follows:

5 g. The refund in this subsection applies only to state sales
6 and use tax paid and does not apply to local option sales and
7 services taxes or local option use taxes imposed pursuant to
8 chapter 423B. Notwithstanding the state sales tax imposed in
9 section 423.2, a refund issued pursuant to this section shall
10 not exceed an amount equal to five percent of the sales price
11 of the items listed in paragraph "a", subparagraphs (1), (2),
12 and (3).

13 Sec. 19. Section 423.34A, unnumbered paragraph 1, Code
14 2017, is amended to read as follows:

15 A purchaser is relieved of liability for payment of state
16 sales or use tax, for payment of any local option sales or use
17 tax, for payment of interest, or for payment of any penalty for
18 nonpayment of tax which nonpayment is not fraudulent, willful,
19 or intentional, under the following circumstances:

20 EXPLANATION

21 The inclusion of this explanation does not constitute agreement with
22 the explanation's substance by the members of the general assembly.

23 BACKGROUND. Iowa law currently imposes a state sales tax and
24 a state use tax. The state sales tax applies to retail sales of
25 property and certain services within Iowa. The state use tax
26 is complementary to the state sales tax and generally applies
27 to the purchase of property or a service that would be subject
28 to the state sales tax if the transaction was consummated in
29 Iowa, but that is instead consummated outside of Iowa but
30 purchased for use in Iowa and used in Iowa.

31 Iowa law also currently allows Iowa counties to impose a
32 local sales and services tax that, with a few exceptions,
33 applies to the same sales of property and services as are
34 subject to the state sales tax. The local option sales and
35 services tax generally applies to sales occurring, and services

1 performed, within the area imposing the tax. Iowa law does not
2 permit counties to impose a local use tax.

3 BILL CHANGES. This bill creates a local option use tax that
4 may be imposed by a county that is also imposing a local option
5 sales and services tax. If imposed, the local use tax rate
6 must be the same as the county's local sales and services tax
7 rate, which under current law cannot exceed 1 percent.

8 The local option use tax is authorized, imposed, and
9 repealed by a county in the same manner as a local option
10 sales and services tax and is administered by the department
11 of revenue (department) in the same manner as the state sales
12 and use tax laws. A county may impose the local option use
13 tax upon a petition of the voters or motions of city councils
14 or the board of supervisors and after an election at which a
15 majority of those voting favors imposition. When imposed, a
16 local option use tax only applies in those incorporated areas
17 and the unincorporated area of a county in which a majority of
18 those voting in the area favored imposition, and if the area
19 is also imposing the local sales and services tax. The local
20 option use tax may be repealed by a majority vote or by motion
21 of the governing body of the area imposing the tax. However,
22 if the county's local option sales and services tax is repealed
23 or the rate decreased, the bill provides that the local option
24 use tax imposed in that county, if any, shall be deemed to
25 be repealed or reduced by the same election or motion of the
26 governing body.

27 The local option use tax is imposed on the same basis as the
28 state use tax and is applicable to uses of taxable property
29 or services within those incorporated and unincorporated
30 areas of the county where it is imposed. The bill provides
31 that evidence that tangible personal property was sold by any
32 person for delivery to a location in Iowa shall be prima facie
33 evidence that such tangible personal property was sold for use
34 at that location in Iowa. The bill also provides that the
35 local option use tax will not apply to the use of natural gas,

1 natural gas service, electricity, or electric service, certain
2 uses of motor or special fuel, the use of equipment by the
3 state department of transportation, and the use of any property
4 or service not taxed by the state.

5 The local option use tax is required to be collected by
6 persons required to collect state use taxes, and if not
7 collected by such persons is required to be paid by the person
8 using the property or service.

9 Local option use taxes are remitted to the department of
10 revenue to be deposited in the appropriate county's account
11 within the local use tax fund created in the bill, and are then
12 distributed back to local governments according to a statutory
13 formula involving population and property tax revenues in the
14 same manner as local sales and services tax revenues are under
15 current law. Local option use taxes received by a city or
16 county may be expended for any lawful purposes of the city or
17 county.

18 The bill provides that local option use taxes may be refunded
19 to certain construction contractors, and pledged towards the
20 repayment of bonds of a city or county, in the same manner as
21 local option sales and services taxes may be under current law.
22 The bill does not allow local use tax revenues to be used to
23 fund urban renewal projects, which is a permitted use of local
24 sales and services tax revenues under current law.

25 Finally, the bill makes several corresponding changes
26 to provisions of the Iowa Code that reference local option
27 taxes or the local option sales and services tax to include
28 references to the local option use tax created in the bill.